

State of Arizona
House of Representatives
Forty-seventh Legislature
First Regular Session
2005

CHAPTER 272

HOUSE BILL 2349

AN ACT

AMENDING SECTIONS 15-203, 15-213, 15-905, 15-2041, 41-1005, 41-1057 AND
43-1089.01, ARIZONA REVISED STATUTES; RELATING TO EDUCATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-203, Arizona Revised Statutes, is amended to
3 read:

4 15-203. Powers and duties

5 A. The state board of education shall:

6 1. Exercise general supervision over and regulate the conduct of the
7 public school system AND ADOPT ANY RULES AND POLICIES IT DEEMS NECESSARY TO
8 ACCOMPLISH THIS PURPOSE.

9 2. Keep a record of its proceedings.

10 3. Make rules for its own government.

11 4. Determine the policy and work undertaken by it.

12 5. Appoint its employees, on the recommendation of the superintendent
13 of public instruction.

14 6. Prescribe the duties of its employees if not prescribed by statute.

15 7. Delegate to the superintendent of public instruction the execution
16 of board policies AND RULES.

17 8. Recommend to the legislature changes or additions to the statutes
18 pertaining to schools.

19 9. Prepare, publish and distribute reports concerning the educational
20 welfare of this state.

21 10. Prepare a budget for expenditures necessary for proper maintenance
22 of the board and accomplishment of its purposes and present the budget to the
23 legislature.

24 11. Aid in the enforcement of laws relating to schools.

25 12. Prescribe a minimum course of study in the common schools, minimum
26 competency requirements for the promotion of pupils from the third grade and
27 minimum course of study and competency requirements for the promotion of
28 pupils from the eighth grade. The state board of education shall prepare a
29 fiscal impact statement of any proposed changes to the minimum course of
30 study or competency requirements and, on completion, shall send a copy to the
31 director of the joint legislative budget committee and the executive director
32 of the school facilities board. The state board of education shall not adopt
33 any changes in the minimum course of study or competency requirements in
34 effect on July 1, 1998 that will have a fiscal impact on school capital
35 costs.

36 13. Prescribe minimum course of study and competency requirements for
37 the graduation of pupils from high school. The state board of education
38 shall prepare a fiscal impact statement of any proposed changes to the
39 minimum course of study or competency requirements and, on completion, shall
40 send a copy to the director of the joint legislative budget committee and the
41 executive director of the school facilities board. The state board of
42 education shall not adopt any changes in the minimum course of study or
43 competency requirements in effect on July 1, 1998 that will have a fiscal
44 impact on school capital costs.

1 14. Supervise and control the certification of persons engaged in
2 instructional work directly as any classroom, laboratory or other teacher or
3 indirectly as a supervisory teacher, speech therapist, principal or
4 superintendent in a school district, including school district preschool
5 programs, or any other educational institution below the community college,
6 college or university level, and prescribe rules for certification, including
7 rules for certification of teachers who have teaching experience and who are
8 trained in other states, which are not unnecessarily restrictive and are
9 substantially similar to the rules prescribed for the certification of
10 teachers trained in this state. Until July 1, 2006, the rules shall require
11 applicants for all certificates for common school instruction to complete a
12 minimum of forty-five classroom hours or three college level credit hours, or
13 the equivalent, of training in research based systematic phonics instruction
14 from a public or private provider. The rules shall not require a teacher to
15 obtain a master's degree or to take any additional graduate courses as a
16 condition of certification or recertification. The rules shall allow a
17 general equivalency diploma to be substituted for a high school diploma in
18 the certification of emergency substitute teachers.

19 15. Adopt a list of approved tests for determining special education
20 assistance to gifted students as defined in section 15-761 and as provided in
21 section 15-764. The adopted tests shall provide separate scores for
22 quantitative reasoning, verbal reasoning and nonverbal reasoning and shall be
23 capable of providing reliable and valid scores at the highest ranges of the
24 score distribution.

25 16. Adopt rules governing the methods for the administration of all
26 proficiency examinations.

27 17. Adopt proficiency examinations for its use. The state board of
28 education shall determine the passing score for the proficiency examination.

29 18. Include within its budget the cost of contracting for the purchase,
30 distribution and scoring of the examinations as provided in paragraphs 16 and
31 17 of this subsection.

32 19. Supervise and control the qualifications of professional
33 nonteaching school personnel and prescribe standards relating to
34 qualifications.

35 20. Impose such disciplinary action, including the issuance of a letter
36 of censure, suspension, suspension with conditions or revocation of a
37 certificate, upon a finding of immoral or unprofessional conduct.

38 21. Establish an assessment, data gathering and reporting system for
39 pupil performance as prescribed in chapter 7, article 3 of this title.

40 22. Adopt a rule to promote braille literacy pursuant to section
41 15-214.

42 23. Adopt rules prescribing procedures for the investigation by the
43 department of education of every written complaint alleging that a
44 certificated person has engaged in immoral conduct.

1 24. For purposes of federal law, serve as the state board for
2 vocational and technological education and meet at least four times each year
3 solely to execute the powers and duties of the state board for vocational and
4 technological education.

5 25. Develop and maintain a handbook for use in the schools of this
6 state that provides guidance for the teaching of moral, civic and ethical
7 education. The handbook shall promote existing curriculum frameworks and
8 shall encourage school districts to recognize moral, civic and ethical values
9 within instructional and programmatic educational development programs for
10 the general purpose of instilling character and ethical principles in pupils
11 in kindergarten programs and grades one through twelve.

12 26. Require pupils to recite the following passage from the declaration
13 of independence for pupils in grades four through six at the commencement of
14 the first class of the day in the schools, except that a pupil shall not be
15 required to participate if the pupil or the pupil's parent or guardian
16 objects:

17 We hold these truths to be self-evident, that all men are
18 created equal, that they are endowed by their creator with
19 certain unalienable rights, that among these are life, liberty
20 and the pursuit of happiness. That to secure these rights,
21 governments are instituted among men, deriving their just powers
22 from the consent of the governed. . . .

23 27. Adopt rules that provide for teacher certification
24 reciprocity. The rules shall provide for a one year reciprocal teaching
25 certificate with minimum requirements including valid teacher certification
26 from a state with substantially similar criminal history or teacher
27 fingerprinting requirements and proof of the submission of an application for
28 a fingerprint clearance card pursuant to title 41, chapter 12, article 3.1.

29 28. Adopt rules that will be in effect until December 31, 2006 and that
30 provide for the presentation of an honorary high school diploma to a person
31 who has never obtained a high school diploma and who meets each of the
32 following requirements:

33 (a) Is at least sixty-five years of age.

34 (b) Currently resides in this state.

35 (c) Provides documented evidence from the Arizona department of
36 veterans' services that the person enlisted in the armed forces of the United
37 States before completing high school in a public or private school.

38 (d) Was honorably discharged from service with the armed forces of the
39 United States.

40 29. Cooperate with the Arizona-Mexico commission in the governor's
41 office and with researchers at universities in this state to collect data and
42 conduct projects in the United States and Mexico on issues that are within
43 the scope of the duties of the department of education and that relate to
44 quality of life, trade and economic development in this state in a manner

1 that will help the Arizona-Mexico commission to assess and enhance the
2 economic competitiveness of this state and of the Arizona-Mexico region.

3 30. Adopt rules to define and provide guidance to schools as to the
4 activities that would constitute immoral or unprofessional conduct of
5 certificated persons.

6 31. Adopt guidelines to encourage pupils in grades nine, ten, eleven
7 and twelve to volunteer for twenty hours of community service before
8 graduation from high school. A school district that complies with the
9 guidelines adopted pursuant to this paragraph is not liable for damages
10 resulting from a pupil's participation in community service unless the school
11 district is found to have demonstrated wanton or reckless disregard for the
12 safety of the pupil and other participants in community service. For the
13 purposes of this paragraph "community service" may include service learning.
14 The guidelines shall include the following:

15 (a) A list of the general categories in which community service may be
16 performed.

17 (b) A description of the methods by which community service will be
18 monitored.

19 (c) A consideration of risk assessment for community service projects.

20 (d) Orientation and notification procedures of community service
21 opportunities for pupils entering grade nine including the development of a
22 notification form. The notification form shall be signed by the pupil and
23 the pupil's parent or guardian, except that a pupil shall not be required to
24 participate in community service if the parent or guardian notifies the
25 principal of the pupil's school in writing that the parent or guardian does
26 not wish the pupil to participate in community service.

27 (e) Procedures for a pupil in grade nine to prepare a written proposal
28 that outlines the type of community service that the pupil would like to
29 perform and the goals that the pupil hopes to achieve as a result of
30 community service. The pupil's written proposal shall be reviewed by a
31 faculty advisor, a guidance counselor or any other school employee who is
32 designated as the community service program coordinator for that school. The
33 pupil may alter the written proposal at any time before performing community
34 service.

35 (f) Procedures for a faculty advisor, a guidance counselor or any
36 other school employee who is designated as the community service program
37 coordinator to evaluate and certify the completion of community service
38 performed by pupils.

39 B. The state board of education may:

40 1. Contract.

41 2. Sue and be sued.

42 3. Distribute and score the tests prescribed in chapter 7, article 3
43 of this title.

44 4. Provide for an advisory committee to conduct hearings and
45 screenings to determine whether grounds exist to impose disciplinary action

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1 against a certificated person, whether grounds exist to reinstate a revoked
2 or surrendered certificate and whether grounds exist to approve or deny an
3 initial application for certification or a request for renewal of a
4 certificate. The board may delegate its responsibility to conduct hearings
5 and screenings to its advisory committee. Hearings shall be conducted
6 pursuant to title 41, chapter 6, article 6.

7 5. Proceed with the disposal of any complaint requesting disciplinary
8 action or with any disciplinary action against a person holding a certificate
9 as prescribed in subsection A, paragraph 14 of this section after the
10 suspension or expiration of the certificate or surrender of the certificate
11 by the holder.

12 6. Assess costs and reasonable attorney fees against a person who
13 files a frivolous complaint or who files a complaint in bad faith. Costs
14 assessed pursuant to this paragraph shall not exceed the expenses incurred by
15 the state board in the investigation of the complaint.

16 Sec. 2. Section 15-213, Arizona Revised Statutes, is amended to read:

17 15-213. Procurement practices of school districts and charter
18 schools; definitions

19 A. The state board of education shall adopt rules prescribing
20 procurement practices for all school districts in this state as follows:

21 1. The state board shall submit to the auditor general proposed rules
22 consistent with the procurement practices prescribed in title 41, chapter 23,
23 modifying the provisions for public notice of invitation for bids, requests
24 for proposals and requests for qualifications to allow a governing board to
25 give public notice of the invitation for bids, requests for proposals and
26 requests for qualifications by publication in the official newspaper of the
27 county as defined in section 11-255, modifying the provisions relating to
28 disposal of materials to comply with section 15-342, paragraph 18, providing
29 for governing board delegation of procurement authority and modifying as
30 necessary other provisions which the state board determines are not
31 appropriate for school districts, ~~for procurement of construction,~~
32 ~~construction services, materials or services when the total procurement~~
33 ~~exceeds thirty thousand dollars in total cost.~~ The rules shall include
34 provisions specifying that school districts are not required to engage in
35 competitive bidding in order to make the decision to participate in programs
36 pursuant to section 15-382 and that a program authorized by section 15-382 is
37 not required to engage in competitive bidding for the services necessary to
38 administer the program or for purchase of insurance or reinsurance. The
39 rules for procurement of construction projects shall include provisions
40 specifying that surety bonds furnished as bid security and performance and
41 payment bonds shall be executed and furnished as required by title 34,
42 chapter 2 or 6, as applicable. THE RULES SHALL SPECIFY THE TOTAL COST OF A
43 PROCUREMENT THAT IS SUBJECT TO INVITATIONS FOR BIDS, REQUESTS FOR PROPOSALS
44 AND REQUESTS FOR CLARIFICATION. THE STATE BOARD SHALL NOT EXCEED THE

1 AGGREGATE DOLLAR AMOUNT LIMITS FOR PROCUREMENTS PRESCRIBED IN SECTION
2 41-2535.

3 2. The state board of education shall adopt rules for procurements
4 involving construction not exceeding one hundred fifty thousand dollars which
5 shall be known as the simplified school construction procurement program. At
6 a minimum, the rules for a simplified construction procurement program shall
7 require that:

8 (a) A list be maintained by each county school superintendent of
9 persons who desire to receive solicitations to bid on construction projects
10 to which additions shall be permitted throughout the year.

11 (b) The list of persons be available for public inspection.

12 (c) A performance bond and a payment bond as required by this section
13 be provided for contracts for construction by contractors.

14 (d) All bids for construction be opened at a public opening and the
15 bids shall remain confidential until the public opening.

16 (e) All persons desiring to submit bids be treated equitably and the
17 information related to each project be available to all eligible persons.

18 (f) Competition for construction projects under the simplified school
19 construction procurement program be encouraged to the maximum extent
20 possible. At a minimum, a school district shall submit information on each
21 project to all persons listed with the county school superintendent by any
22 school district within that county.

23 (g) A provision, covenant, clause or understanding in, collateral to
24 or affecting a construction contract that makes the contract subject to the
25 laws of another state or that requires any litigation, arbitration or other
26 dispute resolution proceeding arising from the contract to be conducted in
27 another state is against this state's public policy and is void and
28 unenforceable.

29 3. On or before December 31, 2004, the state board of education shall
30 adopt rules for the procurement of goods and information services by school
31 districts and charter schools using electronic, on-line bidding. The rules
32 adopted by the state board shall include the use of reverse auctions and
33 shall be consistent with the procurement practices prescribed in title 41,
34 chapter 23, article 13, modifying as necessary those provisions and the rules
35 adopted pursuant to that article that the state board determines are not
36 appropriate for school districts and charter schools. Until the rules are
37 adopted school districts and charter schools may procure goods and
38 information services pursuant to title 41, chapter 23, article 13 using the
39 rules adopted by the department of administration in implementing that
40 article.

41 4. The auditor general shall review the proposed rules to determine
42 whether the rules are consistent with the procurement practices prescribed in
43 title 41, chapter 23 and any modifications are required to adapt the
44 procedures for school districts.

1 5. If the auditor general approves the proposed rules, the auditor
2 general shall notify the state board in writing and the state board shall
3 adopt such rules.

4 6. If the auditor general objects to the proposed rules, the auditor
5 general shall notify the state board of the objections in writing and the
6 state board, in adopting the rules, shall conform the proposed rules to meet
7 the objections of the auditor general or revise the proposed rules to which
8 an objection has been made and submit the revisions to the auditor general
9 for approval.

10 B. After the bids submitted in response to an invitation for bids are
11 opened and the award is made or after the proposals or qualifications are
12 submitted in response to a request for proposals or a request for
13 qualifications and the award is made, the governing board shall make
14 available for public inspection all information, all bids, proposals and
15 qualifications submitted and all findings and other information considered in
16 determining whose bid conforms to the invitation for bids and will be the
17 most advantageous with respect to price, conformity to the specifications and
18 other factors or whose proposal or qualifications are to be selected for the
19 award. The invitation for bids, request for proposals or request for
20 qualifications shall include a notice that all information and bids,
21 proposals and qualifications submitted will be made available for public
22 inspection. The rules adopted by the state board shall prohibit the use in
23 connection with procurement of specifications in any way proprietary to one
24 supplier unless the specification includes all of the following:

25 1. A statement of the reasons why no other specification is
26 practicable.

27 2. A description of the essential characteristics of the specified
28 product.

29 3. A statement specifically permitting an acceptable alternative
30 product to be supplied.

31 C. No project or purchase may be divided or sequenced into separate
32 projects or purchases in order to avoid the limits prescribed by the state
33 board under subsection A of this section.

34 D. A contract for the procurement of construction or construction
35 services shall include a provision which provides for negotiations between
36 the school district and the contractor for the recovery of damages related to
37 expenses incurred by the contractor for a delay for which the school district
38 is responsible, which is unreasonable under the circumstances and which was
39 not within the contemplation of the parties to the contract. This subsection
40 shall not be construed to void any provision in the contract which requires
41 notice of delays, provides for arbitration or other procedure for settlement
42 or provides for liquidated damages.

43 E. The auditor general may conduct discretionary reviews,
44 investigations and audits of the financial and operational procurement
45 activities of school districts, nonexempt charter schools and school

1 purchasing cooperatives. The auditor general has final review and approval
2 authority over all school district, nonexempt charter school and school
3 purchasing cooperative audit contracts and any audit reports issued in
4 accordance with this section.

5 F. In addition to the requirements of sections 15-914 and 15-914.01,
6 school districts, nonexempt charter schools and school purchasing
7 cooperatives, in connection with any audit conducted by a certified public
8 accountant, shall contract for a systematic review of purchasing practices
9 using methodology consistent with sampling guidelines established by the
10 auditor general. The auditor general shall consider cost when establishing
11 guidelines pursuant to this subsection and to the extent possible shall
12 attempt to minimize the cost of the review. The purpose of the review is to
13 determine whether the school district, nonexempt charter school or school
14 purchasing cooperative is in compliance with the procurement laws and
15 applicable procurement rules of this state. A copy of the review shall be
16 submitted upon completion to the auditor general. The auditor general may
17 conduct discretionary reviews of school districts, nonexempt charter schools
18 and school purchasing cooperatives not required to contract for independent
19 audits.

20 G. The attorney general or county attorney has jurisdiction to enforce
21 this section. The attorney general or county attorney may seek relief for
22 any violation of this section through an appropriate civil or criminal action
23 in superior court including an action to enjoin a threatened or pending
24 violation of this section and including an action to enforce compliance with
25 any request for documents made by the auditor general pursuant to this
26 section.

27 H. The department of education shall enact policies and procedures for
28 the acceptance and disposition of complaints from the public regarding school
29 procurement practices and shall forward all school procurement complaints to
30 the attorney general.

31 ~~I. The state board of education shall adjust the total cost provided~~
32 ~~for in subsection A, paragraph 1 of this section by the annual percentage~~
33 ~~change in the GDP price deflator as defined in section 41-563.~~

34 ~~J. I. The state board of education and the auditor general shall~~
35 ~~adopt, AND THE AUDITOR GENERAL SHALL REVIEW, rules authorizing school~~
36 ~~districts to procure construction services by construction-manager-at-risk,~~
37 ~~design-build, qualified select bidders list and job-order-contracting methods~~
38 ~~of project delivery. The rules adopted shall require each school district~~
39 ~~that uses construction-manager-at-risk, design-build, qualified select~~
40 ~~bidders list or job-order-contracting to procure construction services to~~
41 ~~submit, on or before January 15 of each year, a report to the secretary of~~
42 ~~state on the benefits associated with the use of such procurement~~
43 ~~methods. The report shall include the number of projects completed in the~~
44 ~~preceding calendar year using that procurement method, the cost and~~

1 description of each project and an estimate of any cost savings or other
2 benefits realized through the use of that procurement method.

3 ~~K. The dollar amount of each job order under any job order contracting~~
4 ~~construction services program shall not be more than the dollar amount~~
5 ~~determined pursuant to section 41-2578, subsection J, paragraph 1.~~

6 ~~L.~~ J. A school district or charter school may evaluate UNITED STATES
7 general services administration contracts for materials and services. The
8 governing board or governing body may authorize purchases under a current
9 contract for materials or services without complying with the requirements of
10 the procurement rules adopted by the state board of education if the
11 governing board or governing body determines in writing that all of the
12 following apply:

13 1. The price for materials or services is equal to or less than the
14 contractor's current federal supply contract price with the general services
15 administration.

16 2. The contractor has indicated in writing that the contractor is
17 willing to extend the current federal supply contract pricing, terms and
18 conditions to the school district or charter school.

19 3. The purchase order adequately identifies the federal supply
20 contract on which the order is based.

21 4. The purchase contract is cost effective and is in the best
22 interests of the school district or charter school.

23 M. K. For the purposes of this section:

24 1. "Nonexempt charter school" means a charter school that is not
25 exempted from procurement laws pursuant to section 15-183, subsection E,
26 paragraph 6.

27 2. "School purchasing cooperative" means an entity engaged in
28 cooperative purchasing as defined in section 41-2631.

29 3. "Total cost" means the cost of all materials and services,
30 including the cost of labor performed by employees of the school district,
31 for all construction as provided in subsection A of this section.

32 Sec. 3. Section 15-905, Arizona Revised Statutes, is amended to read:

33 15-905. School district budgets; notice; adoption; aggregate
34 budget limit; summary; adjustments; definition

35 A. Not later than July 5 of each year or no later than the publication
36 of notice of the public hearing and board meeting as required by this
37 section, the governing board of each school district shall prepare and
38 furnish to the superintendent of public instruction and the county school
39 superintendent, unless waived by the county school superintendent, a proposed
40 budget in electronic format for the budget year, which shall contain the
41 information and be in the form as provided by the department of education.
42 The proposed budget shall include the following:

43 1. The total amount of revenues from all sources that was necessary to
44 meet the school district's budget for the current year.

1 2. The total amount of revenues by source that will be necessary to
2 meet the proposed budget of the school district, excluding property taxes.
3 The governing board shall prepare the proposed budget and a summary of the
4 proposed budget. Both documents shall be kept on file at the school district
5 office and shall be made available to the public upon request. The auditor
6 general in conjunction with the department of education shall prescribe the
7 form of the summary of the proposed budget for use by governing boards.
8 School district governing boards may include in the proposed budget any items
9 or amounts which are authorized by legislation filed with the secretary of
10 state and which will become effective during the budget year. If subsequent
11 events prevent the legislation from becoming effective, school district
12 governing boards must reduce their budgets by the amounts budgeted pursuant
13 to the legislation which did not become effective.

14 B. The governing board of each school district shall prepare a notice
15 fixing a time not later than July 15 and designating a public place within
16 each school district at which a public hearing and board meeting shall be
17 held. The governing board shall present the proposed budget for
18 consideration of the residents and the taxpayers of the school district at
19 such hearing and meeting.

20 C. The governing board of each school district shall publish or mail,
21 prior to the hearing and meeting, a copy of the proposed budget or the
22 summary of the proposed budget and, in addition, a notice of the public
23 hearing and board meeting no later than ten days prior to the meeting. The
24 proposed budget and the summary of the proposed budget shall contain the
25 percentage of increase or decrease in each budget category of the proposed
26 budget as compared to each category of the budget for the current year.
27 Notification shall be either by publication in a newspaper of general
28 circulation within the school district in which the size of the newspaper
29 print shall be at least eight-point type, BY ELECTRONIC TRANSMISSION OF THE
30 INFORMATION TO THE DEPARTMENT OF EDUCATION FOR POSTING ON THE DEPARTMENT'S
31 WEB SITE or by mailing the information to each household in the school
32 district. The cost of publication, WEB SITE POSTING or mailing shall be a
33 charge against the school district. The publisher's affidavit of publication
34 shall be filed by the governing board with the superintendent of public
35 instruction within thirty days after publication. If the budget or proposed
36 budget and notice are POSTED ON A WEB SITE MAINTAINED BY THE DEPARTMENT OF
37 EDUCATION OR mailed, the board shall file an affidavit of mailing with the
38 superintendent of public instruction within thirty days after the mailing OR
39 THE DATE THAT THE INFORMATION IS POSTED ON THE WEB SITE. If a truth in
40 taxation notice and hearing is required under section 15-905.01, the
41 governing board may combine the notice and hearing under this section with
42 the truth in taxation notice and hearing.

43 D. At the time and place fixed in the notice, the governing board
44 shall hold the public hearing and present the proposed budget to the persons
45 attending the hearing. Upon request of any person, the governing board shall

1 explain the budget, and any resident or taxpayer of the school district may
2 protest the inclusion of any item. A governing board member who has a
3 substantial interest, as defined in section 38-502, in a specific item in the
4 school district budget shall refrain from voting on the specific item. A
5 governing board member may without creating a conflict of interest
6 participate in adoption of a final budget even though the member may have
7 substantial interest in specific items included in the budget.

8 E. Immediately following the public hearing the president shall call
9 to order the governing board meeting for the purpose of adopting the
10 budget. The governing board shall adopt the budget which shall not exceed
11 the general budget limit, the unrestricted capital budget limit or the soft
12 capital allocation limit, making such deductions as it sees fit but making no
13 additions to the proposed budget total for maintenance and operations or
14 capital outlay, and shall enter the budget as adopted in its minutes. Not
15 later than July 18, the budget as finally adopted shall be filed by the
16 governing board with the county school superintendent who shall immediately
17 transmit a copy to the board of supervisors. Not later than July 18, the
18 budget as finally adopted shall be submitted electronically to the
19 superintendent of public instruction. On or before October 30, the
20 superintendent of public instruction shall review the budget and notify the
21 governing board if the budget is in excess of the general budget limit, the
22 unrestricted capital budget limit or the soft capital allocation limit. If
23 the governing board receives notification that the budget is in excess of the
24 general budget limit, the unrestricted capital budget limit or the soft
25 capital allocation limit by fewer than one thousand dollars, the governing
26 board shall adjust the budget and expenditures so as not to exceed the
27 general budget limit, the unrestricted capital budget limit or the soft
28 capital allocation limit for the current year. If the governing board
29 receives notification that the budget is in excess of the general budget
30 limit, the unrestricted capital budget limit or the soft capital allocation
31 limit by one thousand dollars or more, it shall on or before December 15,
32 after it gives notice and holds a public meeting in a similar manner as
33 provided in subsections C and D of this section, adopt a revised budget for
34 the current year which shall not exceed the general budget limit, the
35 unrestricted capital budget limit or the soft capital allocation limit. On
36 or before December 18, the governing board shall file the revised budget
37 which it adopts with the county school superintendent who shall immediately
38 transmit a copy to the board of supervisors. Not later than December 18, the
39 budget as revised shall be submitted electronically to the superintendent of
40 public instruction. School districts that are subject to section 15-914.01
41 are not required to send a copy of revised budgets to the county school
42 superintendent. Procedures for adjusting expenditures or revising the budget
43 shall be as prescribed in the uniform system of financial records.

44 F. The governing board of each school district may budget for
45 expenditures within the school district budget as follows:

1 1. Amounts within the general budget limit, as provided in section
2 15-947, subsection C, may only be budgeted in the following sections of the
3 budget:

4 (a) The maintenance and operation section.

5 (b) The capital outlay section.

6 2. Amounts within the unrestricted capital budget limit, as provided
7 in section 15-947, subsection D, may only be budgeted in the unrestricted
8 capital outlay subsection of the budget. Monies received pursuant to the
9 unrestricted capital budget limit shall be placed in the unrestricted capital
10 outlay fund. The monies in the fund are not subject to reversion.

11 3. The soft capital allocation limit, as provided in section 15-947,
12 subsection E, may only be budgeted in the soft capital allocation subsection
13 of the budget.

14 G. The governing board may authorize the expenditure of monies
15 budgeted within the maintenance and operation section of the budget for any
16 subsection within the section in excess of amounts specified in the adopted
17 budget only by action taken at a public meeting of the governing board and if
18 the expenditures for all subsections of the section do not exceed the amount
19 budgeted as provided in this section. Until June 30, 1999, the governing
20 board may authorize the expenditure of monies to exceed the budgeted
21 expenditures of the capital outlay section of the budget only by action taken
22 at a public meeting of the governing board and if monies are available in the
23 reserve.

24 H. The aggregate budget limit is the sum of the following:

25 1. The general budget limit as determined in section 15-947 for the
26 budget year.

27 2. The unrestricted capital budget limit as determined in section
28 15-947 for the budget year.

29 3. The soft capital allocation limit for the budget year as determined
30 in section 15-947.

31 4. Federal assistance, excluding P.L. 81-874 monies.

32 I. School districts which overestimated tuition revenues as provided
33 in section 15-947, subsection C, paragraph 2 shall adjust the general budget
34 limit and expenditures based upon tuition revenues for attendance of
35 nonresident pupils during the current fiscal year. School districts which
36 underestimated tuition revenues may adjust their budgets prior to May 15
37 based upon tuition revenues for attendance of nonresident pupils during the
38 current fiscal year. School districts which overestimated revenues as
39 provided in section 15-947, subsection C, paragraph 2, subdivision (a), items
40 (iii), (iv) and (v) and subdivision (d) shall adjust the general budget limit
41 and expenditures based on actual revenues during the current fiscal year.
42 School districts which underestimated such revenues may adjust their budgets
43 before May 15 based on actual revenues during the current fiscal year.
44 Procedures for completing adjustments shall be as prescribed in the uniform
45 system of financial records. Not later than May 18, the budget as adjusted

1 shall be submitted electronically to the superintendent of public
2 instruction.

3 J. A common school district not within a high school district whose
4 estimated tuition charge for high school pupils exceeds the actual tuition
5 charge for high school pupils shall adjust the general budget limit and
6 expenditures based on the actual tuition charge. Not later than May 18, the
7 budget as adjusted shall be submitted electronically to the superintendent of
8 public instruction. A common school district not within a high school
9 district whose estimated tuition charge for high school pupils is less than
10 the actual tuition charge for high school pupils may adjust its budget before
11 May 15 based on the actual tuition charge. Procedures for completing
12 adjustments shall be as prescribed in the uniform system of financial
13 records. If the adjusted general budget limit requires an adjustment of
14 state aid and if the adjustment to state aid is not made in the current year,
15 the superintendent of public instruction shall adjust by August 15 of the
16 succeeding fiscal year the apportionment of state aid to the school district
17 to correct any overpayment or underpayment of state aid received during the
18 current year.

19 K. The governing board may include P.L. 81-874 assistance allocated
20 for children with disabilities, children with specific learning disabilities
21 and children residing on Indian lands which is in addition to basic
22 assistance when determining the general budget limit as prescribed in section
23 15-947, subsection C. The governing board may adjust before May 15 the
24 budget for the current year based on any adjustments which result in
25 increases over the amount estimated by the superintendent of public
26 instruction for P.L. 81-874 assistance for such pupils for the fiscal year
27 preceding the current year. The governing board shall adjust before May 15
28 the budget for the current year based on any adjustments which result in
29 decreases in the amount estimated by the superintendent of public instruction
30 for P.L. 81-874 assistance for such pupils for the fiscal year preceding the
31 current year. Not later than May 18, the budget as adjusted shall be
32 submitted electronically to the superintendent of public instruction.
33 Procedures for complying with the provisions of this subsection shall be as
34 prescribed in the uniform system of financial records.

35 L. The state board of education shall hold a hearing if expenditures
36 by any school district exceed the general budget limit prescribed in section
37 15-947, subsection C, the unrestricted capital budget limit, the soft capital
38 allocation limit prescribed in section 15-947, subsection E, the school plant
39 fund limits prescribed in section 15-1102, subsection B, the maintenance and
40 operation section of the budget or the capital outlay section of the
41 budget. If the expenditures of any school district exceed these limits or
42 sections of the budget without authorization as provided in section 15-907,
43 the state board of education shall reduce the state aid for equalization
44 assistance for education for the school district computed as provided in
45 section 15-971 during the fiscal year subsequent to the fiscal year in which

1 the excess expenditures were made by an amount equal to the excess
2 expenditures, except that in case of hardship to the school district, the
3 superintendent of public instruction may approve reductions partly in the
4 first subsequent year and partly in the second subsequent year.

5 M. The governing board of a school district shall reduce the general
6 budget limit, the unrestricted capital budget limit or the soft capital
7 allocation limit, for the year subsequent to the year in which the
8 expenditures were in excess of the applicable limit or section of the budget
9 by the amount determined in subsection L of this section, except that in case
10 of hardship to the school district, the superintendent of public instruction
11 may approve reductions partly in the first subsequent year and partly in the
12 second subsequent year. The reduction in the limit is applicable to each
13 school district which has exceeded the general budget limit, the unrestricted
14 capital budget limit, the soft capital allocation limit or a section of the
15 budget even if the reduction exceeds the state aid for equalization
16 assistance for education for the school district.

17 N. Except as provided in section 15-916, no expenditure shall be made
18 by any school district for a purpose not included in the budget or in excess
19 of the aggregate budget limit prescribed in this section, except that if no
20 budget has been adopted, from July 1 to July 15 the governing board may make
21 expenditures if the total of the expenditures does not exceed ten per cent of
22 the prior year's aggregate budget limit. Any expenditures made from July 1
23 to July 15 and prior to the adoption of the budget shall be included in the
24 total expenditures for the current year. No expenditure shall be made and no
25 debt, obligation or liability shall be incurred or created in any year for
26 any purpose itemized in the budget in excess of the amount specified for the
27 item irrespective of whether the school district at any time has received or
28 has on hand funds in excess of those required to meet the expenditures,
29 debts, obligations and liabilities provided for under the budget except
30 expenditures from cash controlled funds as defined by the uniform system of
31 financial records and except as provided in section 15-907 and subsection G
32 of this section. This subsection does not prohibit any school district from
33 prepaying insurance premiums or magazine subscriptions, or from prepaying any
34 item which is normally prepaid in order to procure the service or to receive
35 a discounted price for the service, as prescribed by the uniform system of
36 financial records.

37 O. The governing board of a school district which is classified as a
38 heavily impacted school district having twenty per cent or more pupils
39 pursuant to 20 United States Code section 238(d)1(A) may determine its
40 eligibility to increase the amount that may be included in determining the
41 general budget limit as provided in subsection K of this section and may
42 increase the amount as follows:

43 1. For fiscal year 1988-1989:

44 (a) Multiply one thousand ninety-four dollars by the number of
45 children with disabilities or children with specific learning disabilities,

1 excluding children who also reside on Indian lands, reported to the division
2 of impact aid, United States department of education in the district's
3 application for fiscal year 1987-1988.

4 (b) Multiply five hundred forty-seven dollars by the number of
5 children residing on Indian lands, excluding children who have disabilities
6 or also have specific learning disabilities, reported to the division of
7 impact aid, United States department of education in the district's
8 application for fiscal year 1987-1988.

9 (c) Multiply one thousand nine hundred fourteen dollars by the number
10 of children residing on Indian lands who have disabilities or also have
11 specific learning disabilities reported to the division of impact aid, United
12 States department of education in the district's application for fiscal year
13 1987-1988.

14 (d) Add the amounts determined in subdivisions (a) through (c).

15 (e) If the amount of P.L. 81-874 assistance as provided in subsection
16 K of this section is less than the sum determined in subdivision (d) of this
17 paragraph, the district is eligible to use the provisions of this subsection.

18 2. For budget years after 1988-1989, use the provisions of paragraph 1
19 of this subsection, but increase each dollar amount by the growth rate for
20 that year as prescribed by law, subject to appropriation and use the number
21 of children reported in the appropriate category for the current fiscal year.

22 3. If the district is eligible to use the provisions of this
23 subsection, subtract the amount of P.L. 81-874 assistance determined in
24 subsection K of this section from the sum determined in paragraph 1,
25 subdivision (d) of this subsection. The difference is the increase in the
26 amount that may be included in determining the general budget limit as
27 provided in subsection K of this section, if including this amount does not
28 increase the district's primary tax rate for the budget year. If the amount
29 of P.L. 81-874 assistance determined in subsection K of this section is
30 adjusted for the current year, the increase determined in this paragraph
31 shall be recomputed using the adjusted amount and the recomputed increase
32 shall be reported to the department of education by May 15 on a form
33 prescribed by the department of education.

34 4. If a district uses the provisions of this subsection, the district
35 is not required to adjust its budget for the current year based on
36 adjustments in the estimated amount of P.L. 81-874 assistance as provided in
37 subsection K of this section.

38 P. A school district, except for an accommodation school, which
39 applies for P.L. 81-874 assistance during the current year may budget an
40 amount for P.L. 81-874 administrative costs for the budget year. The amount
41 budgeted for P.L. 81-874 administrative costs is exempt from the revenue
42 control limit and may not exceed an amount determined for the budgeted year
43 as follows:

44 1. Determine the minimum cost. The minimum cost for fiscal year
45 1990-1991 is two thousand three hundred forty-three dollars. For fiscal year

1 1991-1992 and thereafter, the minimum cost is the minimum cost for the prior
2 year increased by the growth rate as prescribed by law, subject to
3 appropriation.

4 2. Determine the hourly rate. The hourly rate for fiscal year
5 1990-1991 is nine dollars thirty-eight cents. For fiscal year 1991-1992 and
6 thereafter, the hourly rate is the hourly rate for the prior year increased
7 by the growth rate as prescribed by law, subject to appropriation.

8 3. Determine the P.L. 81-874 revenues available by subtracting the
9 amount of P.L. 81-874 assistance used to increase the general budget limit as
10 provided in subsections K and O of this section for the current fiscal year
11 from the total amount of P.L. 81-874 revenues received in the current fiscal
12 year.

13 4. Determine the total number of administrative hours as follows:

14 (a) Determine the sum of the following:

15 (i) 1.00 hours for each high impact pupil who is not disabled or does
16 not have specific learning disabilities.

17 (ii) 1.25 hours for each high impact pupil who is disabled or has
18 specific learning disabilities.

19 (iii) 0.25 hours for each low impact pupil who is not disabled or does
20 not have specific learning disabilities.

21 (iv) 0.31 hours for each low impact pupil who is disabled or has
22 specific learning disabilities.

23 (b) For the purposes of this paragraph:

24 (i) "High impact pupil" means a pupil who resides on Indian lands or a
25 pupil who resides on federal property or in low rent housing and whose parent
26 is employed on federal property or low rent housing property or is on active
27 duty in uniformed service, as provided in P.L. 81-874, section 3(a) and as
28 reported in the application for P.L. 81-874 assistance in the current year.

29 (ii) "Low impact pupil" means a pupil who resides on nonfederal
30 property and has a parent who is employed on federal property or low rent
31 housing property or is on active duty in a uniformed service or a pupil who
32 resides on federal property or in low rent housing and who does not have a
33 parent who is employed on federal property or low rent housing property or is
34 on active duty in uniformed service, as provided in P.L. 81-874, section 3(b)
35 and as reported in the application for P.L. 81-874 assistance in the current
36 year.

37 5. Multiply the total number of administrative hours determined in
38 paragraph 4 of this subsection by the hourly rate determined in paragraph 2
39 of this subsection.

40 6. Determine the greater of the minimum cost determined in paragraph 1
41 of this subsection or the product determined in paragraph 5 of this
42 subsection.

43 7. Add to the amount determined in paragraph 6 of this subsection the
44 amount, if any, to be expended by the school district in the budget year
45 through an intergovernmental agreement with other school districts or the

1 department of education to provide P.L. 81-874 technical assistance to
2 participating districts.

3 8. Determine the lesser of the amount determined in paragraph 7 of
4 this subsection or the revenues available as determined in paragraph 3 of
5 this subsection.

6 9. The amount determined in paragraph 8 of this subsection is the
7 maximum amount which may be budgeted for P.L. 81-874 administrative costs for
8 the budget year as provided in this subsection.

9 10. If the governing board underestimated the amount that may be
10 budgeted for P.L. 81-874 administrative costs for the current year, the board
11 may adjust the general budget limit and the budget before May 15. If the
12 governing board overestimated the amount that may be budgeted for P.L. 81-874
13 administrative costs for the current year, the board shall adjust the general
14 budget limit and the budget before May 15.

15 Q. If a school district governing board has adopted a budget for a
16 fiscal year based on forms and instructions provided by the auditor general
17 and the department of education for that fiscal year and if, as a result of
18 the enactment or nonenactment of proposed legislation after May 1 of the
19 previous fiscal year, the budget is based on incorrect limits, does not
20 include items authorized by law or does not otherwise conform with law, the
21 governing board may revise its budget at a public hearing on or before
22 September 15 to conform with the law. Not later than September 18, the
23 budget as adjusted shall be submitted electronically to the superintendent of
24 public instruction. If the governing board does not revise the budget on or
25 before September 15 and if the budget includes any items not authorized by
26 law or if the budget exceeds any limits, the governing board shall adjust or
27 revise the budget as provided in subsection E of this section.

28 R. For the purposes of this section, "P.L. 81-874 assistance" means,
29 for the current year, an amount equal to the final determination of P.L.
30 81-874 assistance for the fiscal year preceding the current year as confirmed
31 by the division of impact aid, United States department of education or, if a
32 final determination has not been made, the amount estimated by the
33 superintendent of public instruction as confirmed by the division of impact
34 aid, United States department of education and, for the budget year, an
35 amount equal to the determination of P.L. 81-874 assistance for the fiscal
36 year preceding the budget year as estimated by the superintendent of public
37 instruction.

38 Sec. 4. Section 15-2041, Arizona Revised Statutes, is amended to read:
39 15-2041. New school facilities fund; capital plan

40 A. A new school facilities fund is established consisting of monies
41 appropriated by the legislature and monies credited to the fund pursuant to
42 section 37-221 or 42-5030.01. The school facilities board shall administer
43 the fund and distribute monies, as a continuing appropriation, to school
44 districts for the purpose of constructing new school facilities. On June 30
45 of each fiscal year, any unobligated contract monies in the new school

1 facilities fund shall be transferred to the capital reserve fund established
2 by section 15-2003.

3 B. The school facilities board shall prescribe a uniform format for
4 use by the school district governing board in developing and annually
5 updating a capital plan that consists of each of the following:

6 1. Enrollment projections for the next five years for elementary
7 schools and eight years for middle and high schools, including a description
8 of the methods used to make the projections.

9 2. A description of new schools or additions to existing schools
10 needed to meet the building adequacy standards prescribed in section 15-2011.
11 The description shall include:

12 (a) The grade levels and the total number of pupils that the school or
13 addition is intended to serve.

14 (b) The year in which it is necessary for the school or addition to
15 begin operations.

16 (c) A timeline that shows the planning and construction process for
17 the school or addition.

18 3. Long-term projections of the need for land for new schools.

19 4. Any other necessary information required by the school facilities
20 board to evaluate a school district's capital plan.

21 5. If a school district pays tuition for all or a portion of the
22 school district's high school pupils to another school district, the capital
23 plan shall indicate the number of pupils for which the district pays tuition
24 to another district. If a school district accepts pupils from another school
25 district pursuant to section 15-824, subsection A, the school district shall
26 indicate the projections for this population separately. This paragraph does
27 not apply to a small isolated school district as defined in section 15-901.

28 C. If the capital plan indicates a need for a new school or an
29 addition to an existing school within the next four years or a need for land
30 within the next ten years, the school district shall submit its plan to the
31 school facilities board by September 1 and shall request monies from the new
32 school facilities fund for the new construction or land. Monies provided for
33 land shall be in addition to any monies provided pursuant to subsection D of
34 this section.

35 D. The school facilities board shall distribute monies from the new
36 school facilities fund as follows:

37 1. The school facilities board shall review and evaluate the
38 enrollment projections and either approve the projections as submitted or
39 revise the projections. In determining new construction requirements, the
40 school facilities board shall determine the net new growth of pupils that
41 will require additional square footage that exceeds the building adequacy
42 standards prescribed in section 15-2011. If the projected growth and the
43 existing number of pupils exceeds three hundred fifty pupils who are served
44 in a school district other than the pupil's resident school district, the
45 school facilities board, the receiving school district and the resident

1 school district shall develop a capital facilities plan on how to best serve
2 those pupils. A small isolated school district as defined in section 15-901
3 is not required to develop a capital facilities plan pursuant to this
4 paragraph.

5 2. If the approved projections indicate that additional space will not
6 be needed within the next two years for elementary schools or three years for
7 middle or high schools in order to meet the building adequacy standards
8 prescribed in section 15-2011, the request shall be held for consideration by
9 the school facilities board for possible future funding and the school
10 district shall annually submit an updated plan until the additional space is
11 needed.

12 3. If the approved projections indicate that additional space will be
13 needed within the next two years for elementary schools or three years for
14 middle or high schools in order to meet the building adequacy standards
15 prescribed in section 15-2011, the school facilities board shall provide an
16 amount as follows:

17 (a) Determine the number of pupils requiring additional square footage
18 to meet building adequacy standards. This amount for elementary schools
19 shall not be less than the number of new pupils for whom space will be needed
20 in the next year and shall not exceed the number of new pupils for whom space
21 will be needed in the next five years. This amount for middle and high
22 schools shall not be less than the number of new pupils for whom space will
23 be needed in the next four years and shall not exceed the number of new
24 pupils for whom space will be needed in the next eight years.

25 (b) Multiply the number of pupils determined in subdivision (a) of
26 this paragraph by the square footage per pupil. The square footage per pupil
27 is ninety square feet per pupil for preschool children with disabilities,
28 kindergarten programs and grades one through six, one hundred square feet for
29 grades seven and eight, one hundred thirty-four square feet for a school
30 district that provides instruction in grades nine through twelve for fewer
31 than one thousand eight hundred pupils and one hundred twenty-five square
32 feet for a school district that provides instruction in grades nine through
33 twelve for at least one thousand eight hundred pupils. The total number of
34 pupils in grades nine through twelve in the district shall determine the
35 square footage factor to use for net new pupils. The school facilities board
36 may modify the square footage requirements prescribed in this subdivision for
37 particular schools based on any of the following factors:

38 (i) The number of pupils served or projected to be served by the
39 school district.

40 (ii) Geographic factors.

41 (iii) Grade configurations other than those prescribed in this
42 subdivision.

43 (iv) Compliance with minimum school facility adequacy requirements
44 established pursuant to section 15-2011.

1 (c) Multiply the product obtained in subdivision (b) of this paragraph
2 by the cost per square foot. The cost per square foot is ninety dollars for
3 preschool children with disabilities, kindergarten programs and grades one
4 through six, ninety-five dollars for grades seven and eight and one hundred
5 ten dollars for grades nine through twelve. The cost per square foot shall
6 be adjusted annually for construction market considerations based on an index
7 identified or developed by the joint legislative budget committee as
8 necessary but not less than once each year. The school facilities board
9 shall multiply the cost per square foot by 1.05 for any school district
10 located in a rural area. The school facilities board may modify the base
11 cost per square foot prescribed in this subdivision for particular schools
12 based on geographic conditions or site conditions. For the purposes of this
13 subdivision, "rural area" means an area outside a thirty-five mile radius of
14 a boundary of a municipality with a population of more than fifty thousand
15 persons ~~according to the most recent United States decennial census.~~

16 (d) Once the school district governing board obtains approval from the
17 school facilities board for new facility construction funds, additional
18 portable or modular square footage created for the express purpose of
19 providing temporary space for pupils until the completion of the new facility
20 shall not be included by the school facilities board for the purpose of new
21 construction funding calculations. On completion of the new facility
22 construction project, if the portable or modular facilities continue in use,
23 ~~then~~ the portable or modular facilities shall be included as prescribed by
24 this chapter, unless the school facilities board approves their continued use
25 for the purpose of providing temporary space for pupils until the completion
26 of the next new facility that has been approved for funding from the new
27 school facilities fund.

28 4. For projects approved after December 31, 2001, and notwithstanding
29 paragraph 3 of this subsection, a unified school district that does not have
30 a high school is not eligible to receive high school space as prescribed by
31 section 15-2011 and this section unless the unified district qualifies for
32 geographic factors prescribed by paragraph 3, subdivision (b), item (ii) of
33 this subsection.

34 E. Monies for architectural and engineering fees shall be distributed
35 on the completion of the analysis by the school facilities board of the
36 school district's request. After receiving monies pursuant to this
37 subsection, the school district shall submit a design development plan for
38 the school or addition to the school facilities board before any monies for
39 construction are distributed. If the school district's request meets the
40 building adequacy standards, the school facilities board may review and
41 comment on the district's plan with respect to the efficiency and
42 effectiveness of the plan in meeting state square footage and facility
43 standards before distributing the remainder of the monies. The school
44 facilities board may decline to fund the project if the square footage is no
45 longer required due to revised enrollment projections.

1 F. The school facilities board shall distribute the monies needed for
2 land for new schools so that land may be purchased at a price that is less
3 than or equal to fair market value and in advance of the construction of the
4 new school. If necessary, the school facilities board may distribute monies
5 for land to be leased for new schools if the duration of the lease exceeds
6 the life expectancy of the school facility by at least fifty per cent. The
7 proceeds derived through the sale of any land purchased or partially
8 purchased with monies provided by the school facilities board shall be
9 returned to the state fund from which it was appropriated and to any other
10 participating entity on a proportional basis. If a school district acquires
11 real property by donation at an appropriate school site approved by the
12 school facilities board, the school facilities board shall distribute an
13 amount equal to twenty per cent of the fair market value of the donated real
14 property that can be used for academic purposes. The school district shall
15 place the monies in the unrestricted capital outlay fund and increase the
16 unrestricted capital outlay limit by the amount of monies placed in the fund.
17 Monies distributed under this subsection shall be distributed from the new
18 school facilities fund. A school district shall not pay a consultant a
19 percentage of the value of any of the following:

20 1. Donations of real property, services or cash from any of the
21 following:

22 (a) Entities that have offered to provide construction services to the
23 school district.

24 (b) Entities that have been contracted to provide construction
25 services to the school district.

26 (c) Entities that build residential units in that school district.

27 (d) Entities that develop land for residential use in that school
28 district.

29 2. Monies received from the school facilities board on behalf of the
30 school district.

31 3. Monies paid by the school facilities board on behalf of the school
32 district.

33 G. In addition to distributions to school districts based on pupil
34 growth projections, a school district may submit an application to the school
35 facilities board for monies from the new school facilities fund if one or
36 more school buildings have outlived their useful life. If the school
37 facilities board determines that the school district needs to build a new
38 school building for these reasons, the school facilities board shall remove
39 the square footage computations that represent the building from the
40 computation of the school district's total square footage for purposes of
41 this section. If the square footage recomputation reflects that the school
42 district no longer meets building adequacy standards, the school district
43 qualifies for a distribution of monies from the new school construction
44 formula in an amount determined pursuant to subsection D of this
45 section. Buildings removed from a school district's total square footage

1 pursuant to this subsection shall not be included in the computation of
2 monies from the building renewal fund established by section 15-2031. The
3 school facilities board may modify the base cost per square foot prescribed
4 in this subsection under extraordinary circumstances for geographic factors
5 or site conditions.

6 H. School districts that receive monies from the new school facilities
7 fund shall establish a district new school facilities fund and shall use the
8 monies in the district new school facilities fund only for the purposes
9 prescribed in this section. By October 15 of each year, each school district
10 shall report to the school facilities board the projects funded at each
11 school in the previous fiscal year with monies from the district new school
12 facilities fund and shall provide an accounting of the monies remaining in
13 the new school facilities fund at the end of the previous fiscal year.

14 I. If a school district has surplus monies received from the new
15 school facilities fund, the school district may use the surplus monies only
16 for capital purposes for the project for up to one year after completion of
17 the project. If the school district possesses surplus monies from the new
18 school construction project that have not been expended within one year of
19 the completion of the project, the school district shall return the surplus
20 monies to the school facilities board for deposit in the new school
21 facilities fund.

22 J. The board's consideration of any application filed after July 1,
23 2001 or after December 31 of the year in which the property becomes territory
24 in the vicinity of a military airport or ancillary military facility as
25 defined in section 28-8461 for monies to fund the construction of new school
26 facilities proposed to be located in territory in the vicinity of a military
27 airport or ancillary military facility shall include, if after notice is
28 transmitted to the military airport pursuant to section 15-2002 and before
29 the public hearing the military airport provides comments and analysis
30 concerning compatibility of the proposed school facilities with the high
31 noise or accident potential generated by military airport or ancillary
32 military facility operations that may have an adverse effect on public health
33 and safety, consideration and analysis of the comments and analysis provided
34 by the military airport before making a final determination.

35 K. If a school district uses its own project manager for new school
36 construction, the members of the school district governing board and the
37 project manager shall sign an affidavit stating that the members and the
38 project manager understand and will follow the minimum adequacy requirements
39 prescribed in section 15-2011.

40 L. The school facilities board shall establish a separate account in
41 the new school facilities fund designated as the litigation account to pay
42 attorney fees, expert witness fees and other costs associated with litigation
43 in which the school facilities board pursues the recovery of damages for
44 deficiencies correction that resulted from alleged construction defects or
45 design defects that the school facilities board believes caused or

1 contributed to a failure of the school building to conform to the building
2 adequacy requirements prescribed in section 15-2011. Attorney fees paid
3 pursuant to this subsection shall not exceed the market rate for similar
4 types of litigation. Monies recovered as damages pursuant to this subsection
5 shall be used to offset debt service on the correction of existing
6 deficiencies as prescribed by section 15-2021. The joint committee on
7 capital review shall conduct an annual review of the litigation account,
8 including the costs associated with current and potential litigation.

9 M. Until the state board of education and the auditor general adopt
10 rules pursuant to section 15-213, subsection J- I, the school facilities
11 board may allow school districts to contract for construction services and
12 materials through the qualified select bidders list method of project
13 delivery for new school facilities pursuant to this section.

14 Sec. 5. Section 41-1005, Arizona Revised Statutes, is amended to read:
15 41-1005. Exemptions

16 A. This chapter does not apply to any:

17 1. Rule which relates to the use of public works, including streets
18 and highways, under the jurisdiction of an agency if the effect of the order
19 is indicated to the public by means of signs or signals.

20 2. Order of the Arizona game and fish commission which opens, closes
21 or alters seasons or establishes bag or possession limits for wildlife.

22 3. Rule relating to section 28-641 or to any rule regulating motor
23 vehicle operation which relates to speed, parking, standing, stopping or
24 passing enacted pursuant to title 28, chapter 3.

25 4. Rule concerning only the internal management of an agency which
26 does not directly and substantially affect the procedural or substantive
27 rights or duties of any segment of the public.

28 5. Rule that only establishes specific prices to be charged for
29 particular goods or services sold by an agency.

30 6. Rule concerning only the physical servicing, maintenance or care of
31 agency owned or operated facilities or property.

32 7. Rule or substantive policy statement concerning inmates or
33 committed youth of a correctional or detention facility in secure custody or
34 patients admitted to a hospital, if made by the state department of
35 corrections, the department of juvenile corrections, the board of executive
36 clemency or the department of health services or a facility or hospital under
37 the jurisdiction of the state department of corrections, the department of
38 juvenile corrections or the department of health services.

39 8. Form whose contents or substantive requirements are prescribed by
40 rule or statute, and instructions for the execution or use of the form.

41 9. Capped fee-for-service schedule adopted by the Arizona health care
42 cost containment system administration pursuant to title 36, chapter 29.

43 10. Fees prescribed by section 6-125.

44 11. Order of the director of water resources adopting or modifying a
45 management plan pursuant to title 45, chapter 2, article 9.

12. Fees established under section 3-1086.
 13. Fee-for-service schedule adopted by the department of economic security pursuant to section 8-512.
 14. Fees established under sections 41-2144 and 41-2189.
 15. Rule or other matter relating to agency contracts.
 16. Fees established under section 32-2067 or 32-2132.
 17. Rules made pursuant to section 5-111, subsection A.
 18. Rules made by the Arizona state parks board concerning the operation of the Tonto natural bridge state park, the facilities located in the Tonto natural bridge state park and the entrance fees to the Tonto natural bridge state park.
 19. Fees or charges established under section 41-511.05.
 20. Emergency medical services protocols except as provided in section 36-2205, subsection C.
 21. Fee schedules established pursuant to section 36-3409.
 22. Procedures of the state transportation board as prescribed in section 28-7048.
 23. Rules made by the state department of corrections.
 24. Fees prescribed pursuant to section 32-1527.
 25. Rules made by the department of economic security pursuant to section 46-805.
 26. Schedule of fees prescribed by section 23-908.
- B. Notwithstanding subsection A, paragraph 23 of this section, at such time as the federal highway administration authorizes the privatization of rest areas, the state transportation board shall make rules governing the lease or license by the department of transportation to a private entity for the purposes of privatization of a rest area.
- C. Coincident with the making of a rule pursuant to an exemption under this section, the agency shall file a copy of the rule with the secretary of state for publication pursuant to section 41-1012.
- D. Unless otherwise required by law, articles 2, 3, 4 and 5 of this chapter do not apply to the Arizona board of regents and the institutions under its jurisdiction, except that the Arizona board of regents shall make policies or rules for the board and the institutions under its jurisdiction which provide, as appropriate under the circumstances, for notice of and opportunity for comment on the policies or rules proposed.
- E. Unless otherwise required by law, articles 2, 3, 4 and 5 of this chapter do not apply to the Arizona state schools for the deaf and the blind, except that the board of directors of all the state schools for the deaf and the blind shall adopt policies for the board and the schools under its jurisdiction that provide, as appropriate under the circumstances, for notice of and opportunity for comment on the policies proposed for adoption.
- F. UNLESS OTHERWISE REQUIRED BY LAW, ARTICLES 2, 3, 4 AND 5 OF THIS CHAPTER DO NOT APPLY TO THE STATE BOARD OF EDUCATION, EXCEPT THAT THE STATE BOARD OF EDUCATION SHALL ADOPT POLICIES OR RULES FOR THE BOARD AND THE

1 INSTITUTIONS UNDER ITS JURISDICTION THAT PROVIDE, AS APPROPRIATE UNDER THE
2 CIRCUMSTANCES, FOR NOTICE OF AND OPPORTUNITY FOR COMMENT ON THE POLICIES OR
3 RULES PROPOSED FOR ADOPTION. IN ORDER TO IMPLEMENT OR CHANGE ANY RULE, THE
4 STATE BOARD OF EDUCATION SHALL PROVIDE AT LEAST TWO OPPORTUNITIES FOR PUBLIC
5 COMMENT.

6 Sec. 6. Section 41-1057, Arizona Revised Statutes, is amended to read:
7 41-1057. Exemptions

8 In addition to the exemptions stated in section 41-1005, this article
9 does not apply to:

10 1. An agency which is a unit of state government headed by a single
11 elected official.

12 2. The corporation commission, which shall adopt substantially similar
13 rule review procedures, including the preparation of an economic impact
14 statement and a statement of the effect of the rule on small business.

15 ~~3. The state board of education.~~

16 ~~4.~~ 3. The industrial commission of Arizona when incorporating by
17 reference the federal occupational safety and health standards as published
18 in 29 Code of Federal Regulations parts 1904, 1910, 1926 and 1928.

19 ~~5.~~ 4. The Arizona state lottery if making rules that relate only to
20 the design, operation or prize structure of a lottery game.

21 Sec. 7. Section 43-1089.01, Arizona Revised Statutes, is amended to
22 read:

23 43-1089.01. Tax credit; public school fees and contributions;
24 definitions

25 A. A credit is allowed against the taxes imposed by this title for the
26 amount of any fees or cash contributions made by a taxpayer during the
27 taxable year to a public school located in this state for the support of
28 extracurricular activities or character education programs of the public
29 school, but not exceeding:

30 1. Two hundred dollars for a single individual or a head of household.

31 2. Two hundred fifty dollars for a married couple filing a joint
32 return. A husband and wife who file separate returns for a taxable year in
33 which they could have filed a joint return may each claim only one-half of
34 the tax credit that would have been allowed for a joint return.

35 B. The credit allowed by this section is in lieu of any deduction
36 pursuant to section 170 of the internal revenue code and taken for state tax
37 purposes.

38 C. If the allowable tax credit exceeds the taxes otherwise due under
39 this title on the claimant's income, or if there are no taxes due under this
40 title, the taxpayer may carry the amount of the claim not used to offset the
41 taxes under this title forward for not more than five consecutive taxable
42 years' income tax liability.

43 D. The site council of the public school that receives contributions
44 that are not designated for a specific purpose shall determine how the
45 contributions are used at the school site. If a charter school does not have

1 a site council, the principal, director or chief administrator of the charter
2 school shall determine how the contributions that are not designated for a
3 specific purpose are used at the school site.

4 E. A public school that receives fees or a cash contribution pursuant
5 to subsection A of this section shall report to the department, in a form
6 prescribed by the department, by February 28 of each year the following
7 information:

8 1. The total number of fee and cash contribution payments received
9 during the previous calendar year.

10 2. The total dollar amount of fees and contributions received during
11 the previous calendar year.

12 3. The total dollar amount of fees and contributions spent by the
13 school during the previous calendar year, ~~categorized by specific~~
14 ~~extracurricular activity or character education program.~~

15 4. ~~The total number of children who participated in each~~
16 ~~extracurricular activity or character education program funded by the fees or~~
17 ~~contributions during the previous calendar year, categorized by specific~~
18 ~~extracurricular activity or character education program.~~

19 F. For the purposes of this section:

20 1. "Character education programs" means a program described in section
21 15-719.

22 2. "Extracurricular activities" means school sponsored activities that
23 require enrolled students to pay a fee in order to participate including fees
24 for:

25 (a) Band uniforms.

26 (b) Equipment or uniforms for varsity athletic activities.

27 (c) Scientific laboratory materials.

28 (d) In-state or out-of-state trips that are solely for competitive
29 events. Extracurricular activities ~~does~~ DO not include any senior trips or
30 events that are recreational, amusement or tourist activities.

31 Sec. 8. Exemption from budget and state aid reductions for
32 fiscal years 2001-2002 through 2004-2005

33 Notwithstanding section 15-905, subsections L and M, Arizona Revised
34 Statutes, if a school district contracted with a private utility company for
35 hot and chilled water, the value of the contract was more than eight hundred
36 thousand dollars but less than eight hundred five thousand dollars per year
37 and the school district classified its payments to this utility as utility
38 expenditures for fiscal years 2001-2002 through 2004-2005, the following
39 provisions apply:

40 1. The state board of education shall not reduce the district's state
41 aid for equalization assistance because of any expenditures in fiscal years
42 2001-2002 through 2004-2005 that exceeded the general budget limit or the
43 unrestricted capital budget limit because of the reclassification of the
44 payments to the utility company as repair and maintenance costs and capital
45 expenses.

1 2. The governing board of the school district is not required to
2 reduce the general budget limit or the unrestricted capital budget limit
3 because of any expenditures in fiscal years 2001-2002 through 2004-2005 that
4 exceeded the general budget limit or the unrestricted capital budget limit
5 because of the reclassification of the payments to the utility company as
6 repair and maintenance costs and capital expenses.

7 3. The school district is not required to revise its annual financial
8 report for fiscal years 2001-2002 through 2004-2005 to reclassify the
9 payments to the utility company as repair and maintenance costs and capital
10 expenses.

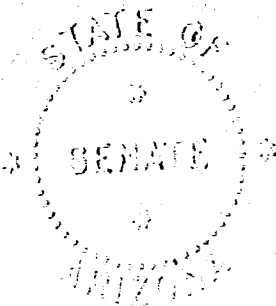
11 4. Beginning in fiscal year 2005-2006, the superintendent of public
12 instruction shall withhold a portion of the school district's apportionment
13 of state aid for each of the next three fiscal years until the total amount
14 of state aid withheld from the school district equals twenty per cent of the
15 value of the contracts entered into pursuant to this section between fiscal
16 years 2001-2002 through 2004-2005.

17 Sec. 9. Emergency

18 This act is an emergency measure that is necessary to preserve the
19 public peace, health or safety and is operative immediately as provided by
20 law.

APPROVED BY THE GOVERNOR MAY 9, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 10, 2005.



Passed the House March 14, 2005,

Passed the Senate May 2, 2005,

by the following vote: 46 Ayes,

by the following vote: 18 Ayes,

10 Nays, 4 Not Voting

11 Nays, 1 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

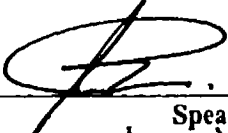
H.B. 2349

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

May 4, 2005,

by the following vote: 41 Ayes,

18 Nays, 1 Not Voting


Speaker of the House
Norman L. Moore
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

4th day of May, 2005


at 12:25 o'clock P. M.

Wennifer Ibarra
Secretary to the Governor

Approved this 9 day of

May, 2005,

at 4:20 o'clock P. M.


Governor of Arizona

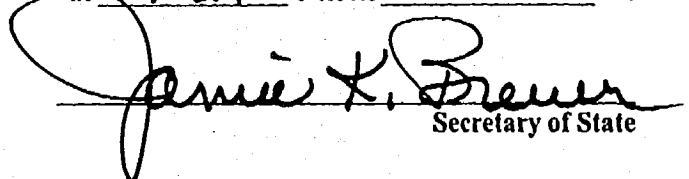
H.B. 2349

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 10 day of May, 2005,

at 9:26 o'clock A. M.


Secretary of State